

Message Text

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FM AMCONSUL SURABAYA

TO SECSTATE WASHDC 0375

INFO AMEMBASSY JAKARTA

UNCLAS SURABAYA 0435

E.O. 11652: N/A

TAGS: CDES, ID (RIEND, JOHN G.)

SUBJ: DISPOSITION OF ESTATE. REQUEST FOR ADVISORY OPINION

SUMMARY: DEPARTMENT'S GUIDANCE IS REQUESTED IN ESTATE CASE IN WHICH A PORTION OF ESTATE IS LOCATED IN INDONESIA, DECEDENT RESIDED AND DIED IN MEXICO AND CLAIMANTS TO ESTATE LIVE IN MEXICO (SPOUSE) AND CALIFORNIA (SON). END SUMMARY.

1. FACTS OF SUBJECT CASE ARE AS FOLLOWS: SUBJECT WAS EMPLOYED ON CONTRACT IN EAST JAVA. POSSESSIONS IN INDONESIA INCLUDED PERSONAL AND HOUSEHOLD EFFECTS OF SIGNIFICANT VALUE, NEW AUTOMOBILE PURCHASED FOR NEARLY \$6,000, APPROXIMATELY \$2,500 IN CASH, AND VARIOUS REPORTED PRIVATE BUSINESS DEALINGS IN LOCAL AREA OF INDETERMINATE VALUE. TOTAL VALUE OF LOCAL PORTION OF ESTATE PROBABLY IN EXCESS OF \$10,000. SUBJECT DEPARTED INDONESIA FOR MEDICAL TREATMENT IN MEXICO, AND DIED DURING TREATMENT THERE. SURVIVING SPOUSE LIVES IN MEXICO (MAY BE MEXICAN NATIONAL). AT LEAST ONE CHILD (SON) LIVES IN CALIFORNIA. SUBJECT'S LEGAL RESIDENCE IN U.S., IF ANY, UNKNOWN, AS IS EXISTENCE OF ANY PROPERTY OR OTHER ESTATE IN U.S., BUT ON CONSULATE REGISTRATION CARD SUBJECT LISTED SON'S CALIFORNIA ADDRESS AS HIS OWN U.S. ADDRESS.

2. CLAIMS TO ESTATE HAVE BEEN ASSERTED INFORMALLY BY BOTH WIFE AND SON. WIFE HAS EXECUTED AFFIDAVIT OF NEXT OF KIN. SON HAS INDICATED INTENT TO FILE FOR PROBATE IN CALIFORNIA. NEITHER CLAIMANT HAS YET PRESENTED EVIDENCE OF APPOINTMENT BY ANY COURT AS ADMINISTRATOR. LAW DIGESTS AVAILABLE AT UNCLASSIFIED

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POST INDICATE THAT IN BOTH MEXICO AND CALIFORNIA BOTH SPOUSE

AND CHILDREN ARE ENTITLED TO SHARES OF AN INTESTATE ESTATE, THOUGH APPORTIONMENT DIFFERS IN THE TWO JURISDICTIONS. IN VIEW OF VALUE OF ESTATE AND CONFLICTING CLAIMS, CONSULAR OFFICER WILL REQUIRE LETTERS OF ADMINISTRATION AS EVIDENCE OF ANY CLAIMANT'S RIGHT TO RECEIVE INDONESIAN PORTION OF ESTATE.

3. IN LIGHT OF STATEMENT IN 7 FAM (446.1) THAT CONSULAR OFFICER IS RESPONSIBLE TO U.S. REPEAT U.S. COURT HAVING PROBATE JURISDICTION, DEPARTMENT'S GUIDANCE IS REQUESTED AS TO MERITS IN SUCH A CASE OF CLAIM FILED OR ADMINISTRATOR APPOINTED BY FOREIGN (MEXICAN) COURT, PARTICULARLY IN CASE WHERE SUBJECT HAD NO U.S. LEGAL RESIDENCE BUT ALSO IN EVENT CONFLICTING CLAIM IS FILED IN U.S. (CALIFORNIA). IS CONSULAR OFFICER RESPONSIBLE ALSO TO FOREIGN COURT, AND IN EVENT OF RIVAL CLAIMS IN DIFFERING NATIONAL JURISDICTIONS WHAT FORM OF ADJUDICATION CAN BE REQUIRED?

RANDOLPH

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